



Illinois Department of Transportation

Office of Business & Workforce Diversity
2300 South Dirksen Parkway / Springfield, Illinois 62764

September 16, 2009

Mr. Dwight B. Sinks
Regional Civil Rights Officer
Federal Transit Administration
200 West Adams Street, Suite 320
Chicago, Illinois 60606

Dear Mr. Sinks:

Enclosed herewith, please find the Illinois Department of Transportation's (Department) overall Federal Transit Administration DBE program goal submission for FFY 2010 as required by 49 CFR 26.45(f)(1). The Department understands that this overall goal is submitted for review, and that prior operating administration concurrence with the goal submitted is not required per 49 CFR 26.45(f)(4).

Sincerely,

Lawrence Parrish, Acting Director
Office of Business & Workforce Diversity

Enclosure

Illinois Department of Transportation

FFY 2010

Federal Transit Administration

Overall DBE Goal

The Illinois Department of Transportation (IDOT) has prepared this submission to the Federal Transit Authority (FTA) to describe the methodology used to establish the transit Disadvantaged Business Enterprise (DBE) goal mandated by 49 CFR part 26 for its federally-assisted transit contracts. IDOT relied on and followed the regulations and guidance provided concerning the implementation of the regulations. 49 CFR §26.45 requires a two-step process for setting the transit DBE goal that reflects the level of DBE participation on IDOT's contracts expected in the absence of discrimination. The first step is the calculation of a base figure for the relative availability of DBEs. The second step requires consideration of a possible adjustment of the base figure to reflect the effects of the DBE program and the level of participation that would be expected "but for" the effects of past and current discrimination against DBEs. As further required by §26.51(c), IDOT submits a projection of the portion of the transit goal that it expects to meet through race-neutral means and the basis for the projection.

I. Methodology and Evidence

A. Step 1 Estimate of Relative Availability of DBEs

Step 1 is to determine the base figure for the relative availability of DBEs. IDOT utilized the number of transit-related DBEs in its certification database as its numerator and the total number of identifiable (transit-related) firms in the Census Bureau's County Business Patterns (CBP) database as its denominator.¹

To determine the numerator, IDOT used the number of DBEs in transit-related contracting, sorted by North American Industry Classification System (NAICS) Codes (#541330 - Engineering Services; #541810 - Advertising Agencies; #541320 - Landscape Architectural Services which includes Urban Planning Services; #485113 - Bus & Motor Vehicle Transit Systems; and #541850 - Display Advertising). 79 DBEs comprised the numerator.

To determine the denominator, IDOT used the Census Bureau's CBP database and the same NAICS codes as utilized for the numerator. 3,180 (Illinois) establishments comprised the denominator.

Therefore, the base figure estimate of DBE availability is 2.48 percent.

B. Step 2 Consideration of Adjustment to the Base Figure

Step 2 requires that IDOT examine all evidence in its jurisdiction to determine what adjustment, if any, is needed to the base figure to arrive at the overall goal. Included among the types of evidence that must be considered are the current capacity of DBEs to perform work on IDOT's federally-assisted contracts, as measured by the volume of work DBEs have performed in recent years, and evidence from disparity studies conducted anywhere within IDOT's

¹ The IDOT Study and other evidence relied upon by IDOT and upheld by the courts did not include FTA-assisted contracts. See *Northern Contracting, Inc. v. Illinois Department of Transportation*, 473 F.3d 715 (7th Cir. 2007),

jurisdiction, to the extent not already accounted for in the base figure. IDOT must also consider available evidence from related fields that affect the opportunities for DBEs to form, grow and compete, if available. These include, but are not limited to, statistical disparities in the ability of DBEs to get the financing, bonding and insurance required to participate in the program, and data on employment, self-employment, education, training and union apprenticeship programs, to the extent relevant to the opportunities for DBEs to perform in the program. The regulations caution that any adjustment to the base figure to account for the continuing effects of past discrimination or the effects of an ongoing DBE program must be based on "demonstrable evidence that is logically and directly related to the effect for which the adjustment is sought." §26.45(d)(3).

1. Past DBE Utilization

IDOT considered the current capacity of DBEs to perform on its federally assisted contracts, measured by the volume of work DBEs have received in recent years. For FFYs 2006 - 2008, DBEs received 8.89 percent of IDOT's Division of Public Intermodal Transportation (DPIT) direct and subrecipient contract opportunities (\$836,417 of \$9,404,575). Following is the breakdown by year:

2006 - Total DPIT subrecipient contract opportunities, \$2,515,737

Direct DPIT awards - \$807,479

DBEs received 16.6% (\$537,050) of total DPIT direct and subrecipient contract opportunities (\$3,323,216)

2007 - Total DPIT subrecipient contract opportunities, \$2,560,701

Direct DPIT awards - \$264,063

Total DPIT direct and subrecipient contract opportunities - \$2,824,764

DBEs received 0% (\$0) of total DPIT direct and subrecipient contract opportunities

2008 - Total DPIT subrecipient contract opportunities, \$2,635,284

Direct DPIT awards - \$621,311

Total DPIT direct and subrecipient contract opportunities - \$3,256,595

DBEs received 48.18% (\$299,367) of total DPIT direct and subrecipient contract opportunities (\$3,256,595)

2. Evidence from local disparity studies

There are no local disparity studies of the types of contracts involved in FTA-assisted contracts.

3. Statistical evidence of disparities

IDOT has no relevant data from related fields that affect the opportunities for DBEs to form, grow and compete on FTA-assisted contracts.

4. Step 2 adjustment evaluations

Given the lack of data relevant to a determination of whether an adjustment to the base figure to account for the effects of discrimination is supportable, IDOT did not adjust the base figure.

IDOT therefore adopts as its FFY 2010 goal the step 1 estimate of 2.48 percent.

II. Projection of Race-Neutral vs. Race-Conscious Goal Attainment

IDOT will meet its FFY 2010 goal of 2.48 percent through race-neutral measures. Ongoing initiatives seek to reduce discriminatory barriers, increase capacity and level the playing field for the participation of DBEs and other small contractors.

A. Race-neutral initiatives

1. Complaint procedures

IDOT adopted a procedure to process complaints of discrimination in the operation of the program and against contractors receiving IDOT contracts. This will ensure prompt, uniform and fair responses to allegations of unlawful conduct so that DBEs, non-DBEs and interested persons can have confidence in the integrity of IDOT's operations.

2. Prompt payment

IDOT continues to enforce its prompt payment provisions and processes. It impresses upon its personnel and prime contractors the necessity and importance of meeting these requirements.

3. Outreach

IDOT has implemented an extensive outreach program to attract additional DBE participation and to assist those businesses to become competitive in a race-neutral environment. It is further contacting firms identified as possible program participants to encourage their applications and assist with meeting eligibility criteria.

4. Business development assistance

IDOT retains a network of consultants to provide management and technical assistance to its DBEs to increase their knowledge and competitiveness.

5. Networking

IDOT sponsors networking sessions throughout the state to encourage cooperation and participation on major construction projects. It is also cooperating with a statewide network of 20 Small Business Development Centers administered by the U.S. Small Business Administration and the Illinois Department of Commerce and Economic Opportunity to provide information and training to DBEs and small businesses.

B. Estimate of Race-Neutral Participation

IDOT will meet its FFY 2010 goal of 2.48 percent through race-neutral measures.

IDOT's race-neutral achievement for the period of FFY 2006 - 2008 was 8.89 percent [DBE participation (\$836,417) divided by total awards (\$9,404,575)].

| Federal Fiscal Year | Total FTA Contracting Opportunities | Race-neutral DBE Utilization |
|----------------------------|--|-------------------------------------|
| 2006 | \$3,323,216 | 16.6% (\$537,050) |
| 2007 | \$2,824,764 | 0% (\$0) |
| 2008 | \$3,256,595 | 48.18% (\$3,256,595) |

IDOT exceeded its goals in FFY 2006 and FFY 2008 through race-neutral measures. Although DPIT had zero DBE participation in FFY 2007, it is anticipated that DPIT will meet its FFY 2010 goal of 2.48 percent solely through race-neutral measures, as mandated in §26.51(f)(3).

III. Public Participation

To satisfy the public consultation requirements of the regulations, IDOT provided copies of its proposed submission to numerous stakeholders who may have information concerning the availability of DBEs and non-DBEs, the effects of discrimination on opportunities for DBEs, and IDOT's efforts to establish a level playing field for DBE participation, for their review and comments. IDOT will evaluate any comments received and make changes to its proposed goal if warranted. IDOT is also publishing a notice of its goal and request for comments in its usual media outlet.